

**IN THE STATE OF MISSISSIPPI
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

MISSISSIPPI REAL ESTATE COMMISSION

vs.

NO. 052-1809

**JUDY E. PIPPIN, PRINCIPAL BROKER
J. WOODY SPIERS, SALESPERSON**

RESPONDENTS

AGREED ORDER

This cause came before the Mississippi Real Estate Commission, sometimes hereinafter "Commission," pursuant to the authority of Miss. Code Ann. §§73-35-1, *et seq.*, as amended, on a Complaint against Judy E. Pippin, Broker, and J. Woody Spiers, Salesperson, and the Commission, was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondents waive their right to a full hearing and their right to appeal to the circuit court. The Commission, then, does hereby find and order the following:

I.

Respondent, Judy E. Pippin (hereinafter called "Pippin"), is an adult resident citizen of MS whose last known business address of record is 1605 Hwy. 11 N., Ste. A, Picayune, MS. Respondent Pippin holds a Broker license issued by the Commission pursuant to M. C. A. §§73-35-1, *et seq.*, and, as such, she is subject to the provisions, rules, regulations and statutes governing the practice of real estate under Miss. law and the Commission administrative rules.

II.

Respondent, J. Woody Spiers, (sometimes called "Spiers"), is an adult resident citizen of MS whose last known business address of record is 1605 Hwy. 11 N., Picayune, MS. Respondent Spiers holds a sales license issued by this Commission pursuant to M. C. A. §§73-35-1, et seq., and so he is subject to the provisions, rules, regulations and statutes governing the practice of real estate under both Miss. law and the Commission administrative rules. Respondent Pippin was, at all times relevant, Respondent Spiers' principal broker.

III.

In August of 2018, the Commission received communications of concern from the Complainant that she was involved in two real estate transactions of both selling and then buying a house, both involving her agents, the Respondents. The Commission staff investigated further. This examination revealed that Respondent Spiers had "aided" the Complainant in the purchase of a home by "loaning" her earnest money. These funds were furnished from the Respondent Spiers personal checking account, making him impermissibly involved financially.

IV.

Additionally, a review of the transactional documents revealed that the Complainant did not date the informational statement of the state-mandated PCDS form she completed for the sale of her home. Respondent Spiers used the same WWREB form for both transactions, when separate forms were to be used, since the client's status is different when buying as opposed to selling a home. The PCDS for the home the Complainant was buying had blanks and it was incumbent upon her agents, the Respondents, to have that oversight corrected by the seller for the benefit of their client, the Complainant, inasmuch as the PCDS could impact and does trigger any home inspection ordered by the Complainant.

V.

The Commission finds that Respondent Pippin, as principal broker, either knowingly and willfully or through gross negligence, failed to discern and correct the aforesaid violations. Said conduct evidences a careless or reckless indifference and demeanor toward the Commission Rule 3.1, as well as Mississippi law, and warrants sanctions being imposed.

VI.

The above and foregoing described acts of the Respondents Judy E. Pippin and J. Woody Spiers constitute violations of Miss. Code Ann. §73-35-1, et seq. and MREC Rules, in particular:

Rule 3.1 General Rules

A. It shall be the duty of the responsible broker to instruct the licensees licensed under that broker in the fundamentals of real estate practice, ethics of the profession and the Mississippi Real Estate License Law and to exercise supervision of their real estate activities for which a license is required.

Rule 4.2 Definitions

A. "Agency" shall mean the relationship created when one person, the Principal (client), delegates to another, the agent, the right to act on his behalf in a real estate transaction and to exercise some degree of discretion while so acting. Agency may be entered into by expressed agreement, implied through the actions of the agent and or ratified after the fact by the principal accepting the benefits of an agent's previously unauthorized act. *An agency gives rise to a fiduciary relationship and imposes on the agent, as the fiduciary of the principal, certain duties, obligations, and high standards of good faith and loyalty.*

B. "Agent" shall mean one who is authorized to act on behalf of and represent another. A real estate broker is the agent of the principal (client) to whom a fiduciary obligation is owed. Salespersons licensed under the broker are subagents of the Broker, regardless of the location of the office in which the salesperson works.

C. "Client" shall mean the person to whom the agent owes a fiduciary duty. It can be a seller, buyer, landlord, tenant or both.

D. "Compensation" is that fee paid to a broker for the rendering of services. Compensation, when considered alone, is not the determining factor in an agency relationship. The relationship can be created regardless of whether the seller pays the fee, the buyer pays the fee, both pay the fee or neither pays a fee.

E. "Customer" shall mean that person not represented in a real estate transaction. It may be the buyer, seller, landlord or tenant.

F. "Disclosed Dual Agent" shall mean that agent representing both parties to a real estate transaction with the informed consent of both parties, with written understanding of specific duties and representation to be afforded each party. There may be situations where disclosed dual agency presents conflicts of interest that cannot be resolved without breach of duty to one party or another. Brokers who practice disclosed dual agency should do so with the utmost caution to protect consumers and themselves from inadvertent violation of demanding common law standards of disclosed dual agency.

G. "Fiduciary Responsibilities" are those duties due the principal (client) in a real estate transaction are:

(1) 'Loyalty' - the agent must put the interests of the principal above the interests of the agent or any third party.

(2) 'Obedience' - the agent agrees to obey any lawful instruction from the principal in the execution of the transaction that is the subject of the agency.

(3) 'Disclosure' - the agent must disclose to the principal any information the agent becomes aware of in connection with the agency.

(4) 'Confidentiality' - the agent must keep private information provided by the principal and information which would give a customer an advantage over the principal strictly confidential, unless the agent has the principal's permission to disclose the information. This duty lives on after the agency relationship is terminated.

(5) 'Reasonable skill, care and diligence' - the agent must perform all duties with the care and diligence which may be reasonably expected of someone undertaking such duties. (6) 'Full accounting' - the agent must provide a full accounting of any money or goods coming into the agent's possession which belong to the principal or other parties

H. "First Substantive Meeting" shall be:

(1) In a real estate transaction in which the Broker is the agent for the seller, first substantive meeting shall be before or just immediately prior to the first of any of the following:

(a) Showing the property to a prospective buyer.

(b) Eliciting confidential information from a buyer concerning the buyers' real estate needs, motivation, or financial qualifications.

(c) The execution of any agreements governed by § 73-35-3 of the Miss. Code of 1972 Ann.

(2) For the seller's agent, the definition shall not include:

(a) A bona fide "open house" or model home showing which encompasses (1)(a) above only; however, whenever an event described in (1)(b) or (1)(c) occurs, disclosure must be made.

(b) Preliminary conversations or "small talk" concerning price range, location and property styles.

(c) Responding to general factual questions from a prospective buyer concerning properties that have been advertised for sale or lease.

(3) In a real estate transaction in which the Broker is the agent for the buyer, first substantive meeting shall be at the initial contact with a seller or a seller's agent or before or just immediately prior to the first of any of the following:

(a) Showing the property of a seller to a represented buyer.

(b) Eliciting any confidential information from a seller concerning their real estate needs, motivation, or financial qualifications.

(c) The execution of any agreements governed by Section 73-35-3 of the Miss. Code. Ann.

DISCIPLINARY ORDER

THEREFORE, by agreement, understanding and consent of the parties, the Commission ORDERS discipline, to begin February 15th, 2019, as follows:

As to Judy E. Pippin, Broker: 30 days of license suspension, with said suspension to be held in abeyance pending no further infractions, followed by 11 months of probation. Additionally, prior to expiration of the suspension time held in abeyance, Broker Pippin shall complete eight (8) hours of mandatory continuing education consisting of four (4) hours in agency; two (2) hours in license law; and two (2) hours in contract law. All courses must be those approved by the Commission. prior to being taken and shall be administered by a Mississippi approved CE provider in a classroom setting (not online). This mandatory continuing education will be in addition to any other continuing education previously taken as well as any required for renewal of Pippin's license and, further, cannot be the same continuing education courses from the same provider previously completed for the renewal of Pippin's license during the last two (2) renewal periods. Written evidence of satisfactory completion of the courses shall be promptly furnished to the Commission.

As to J. Woody Spiers, Salesperson: 90 days of suspension of his license, with 30 as full suspension (no working) and 60 days held in abeyance pending no further infractions, followed by 11 months of probation. Additionally, prior to expiration of the full suspension time, Woody Spiers shall complete eight (8) hours of mandatory continuing education consisting of four (4) hours in agency; two (2) hours in license law; and two (2) hours in contract law. All courses shall be those approved by the Commission, prior to being taken, and shall be administered by a Mississippi approved CE provider in a classroom setting (not online). This mandatory continuing education shall be in addition to any other continuing education previously taken as well as any required for renewal of Spier's license and, further, cannot be the same continuing education courses from the same provider previously completed for the renewal of his license during the last two (2) renewal periods. Written evidence of satisfactory completion of the courses shall be promptly furnished to the Commission.

SO ORDERED this the 5th day of FEBRUARY, 2019.

MISSISSIPPI REAL ESTATE COMMISSION



BY:

Robert E. Praytor
ROBERT E. PRAYTOR, Administrator

Agreed:

Judy E. Pippin
Judy E. Pippin, Broker

DATE: 1-31-19

Agreed:

J. Woody Spiers
J. Woody Spiers, Salesperson

DATE: 1-31-2019